

CWC Review Conference Report

The sixth day: a Committee of the Whole or a committee of three parts?

The sixth day of the Fourth five-yearly Review Conference (RC-4) of the of the Chemical Weapons Convention (CWC) saw the completion of the work of the Committee of the Whole, a new text by the Chair of the Committee, and the announcement of a move to informal consultations.

From what can be gleaned from discussions in corridors with participants in the work of the Committee of the Whole there would seem to be three groups of states parties within the proceedings. A key defining factor is the divergences of views relating to the June decision of the CSP Special Session on attribution issues. Just as it was possible to describe most interventions in the twenty-third session of the Conference of States Parties (CSP) that preceded the Review Conference into two groups that could be described as 'June decision supporters' and 'June decision opponents' [see earlier daily reports] these groupings could be identified in the work of the Committee of the Whole. As noted before, the June decision supporters consider claims that chemical weapons have been used on numerous occasions in Syria to be credible and cite a number of published sources in support of this, including reports from the OPCW Fact-Finding Mission and the UN-OPCW Joint Investigative Mission. From the other perspective, the June decision opponents broadly claim that the allegations of use of chemical weapons in Syria are based on fabrications and politicized statements which have led to politicization of the OPCW itself. Within the Committee as a Whole there has also been a quiet group of delegates, many of whom do not have strong inclinations either way on the attribution issue but see no advantage in speaking out as they cannot see any way of bridging the gap between the views on each side. As is usual in these situations, there have been no reported changes of positions from those made in the public sessions such as the general debate.

Short plenary, including report from the Committee of the Whole

Late on Wednesday afternoon, the plenary was resumed to hear a report back from the Chair of the Committee of the Whole, Ambassador Marcin Czepelak (Poland). He noted that the Committee had held 6 meetings totalling almost 17 hours of working time and that one reading had been completed of the entire draft provisional text that had been prepared by Chair of the Open-Ended Working Group for the Preparation of the Fourth Review Conference (OEWG), Ambassador Puja (Indonesia). He described the work as having made 'substantial progress' and suggested that the work of the Committee was an 'open and transparent process'. [Note: in suggesting an 'open and transparent process', Ambassador Czepelak is clearly referring to what delegates from states parties might feel about the work of the Committee. Those who have been excluded from the room while the Committee of the Whole is in session, such as NGOs, are not likely to describe the process in such terms.]

He thanked a group of Ambassadors who conducted informal consultations to help facilitate the outcome: Amb. Matthew Neuhaus (Australia), Amb. Sabine Nölke (Canada), Amb. María Teresa Infante (Chile), Amb. Mr. Gusti Agung Wesaka Puja (Indonesia), Amb. Hiroshi Inomata (Japan), Amb. Abdelouahab Bellouki (Morocco), Amb. Shujjat Ali Rathore (Pakistan), and Amb. Bruce Koloane (South Africa).

Ambassador Czepelak indicated that consensus could not be achieved on all paragraphs of the draft provisional text within the limited time that the Committee of the

Whole had to work within and noted that there were ‘still outstanding issues, on which fundamental divergence of views continue to exist’. [Note: the Committee of the Whole met for fewer hours at this Review Conference than at the previous two, in line with the total reduction of the number of working days at this Review Conference to 8 compared with the 10 at the previous Review Conferences.]

Ambassador Agustín Vásquez Gómez (El Salvador), Chair for the Review Conference, thanked Ambassador Czepelak for having handled a ‘difficult task’ to a compressed timetable. He announced that he would holding informal consultations based of the text being prepared by the Chair of the Committee of the Whole and that he aimed to submit a new text to a plenary session at 15.00 on Thursday which would then be suspended for delegates to consider the detail of the text and reconvene at 19.30. He also announced that in between these plenaries, the resumption of the twenty-third session of the Conference of States Parties, which had been unable to adopt its final report the week before, would be convened and this would be scheduled for 16.00.

Moving towards the end-game of the Review Conference

It is clear that to achieve consensus on certain substantive policy points – such as allegations of use or attribution – will be extremely challenging, if not impossible. Impossible is a term most delegates would not want to use at this stage, but there is a clear recognition that any reasonable possibility of moving toward consensus has to be attempted as it would be foolish not to exhaust all options. However, there are a number of challenging influences, or potential influences, on proceedings; one is that the wrong sort of effort to push for consensus could inadvertently harden positions which could then spill over into activities after the Review Conference.

There has been active consideration by many delegations about what form of document there might be that could replace the final document of the usual CWC Review Conference format. The procedural elements of the usual CWC document format are mostly uncontroversial and so there is clear potential for a procedural report to be adopted by consensus. This would leave open the question of what text – including in what format and in the name of whom – could be put together to reflect the substantive work of the Conference. There are many precedents within a variety of international treaty arrangements where the outputs of a conference have been separated into a part agreed by consensus and a part for which it is clearly indicated that consensus could not be reached. In many cases, a Chair’s summary or a Chair’s report will fulfil this latter function, but this works best where divergences do not run too deep.

In working out what forms of output might be produced, it is worth thinking about the question: ‘What do we have a Review Conference for?’ In general terms, five-yearly Review Conferences of the treaties relating to the control of ‘weapons of mass destruction’ are the ultimate decision-making bodies as no other meetings have powers to take substantive decisions, including those on budgets. This is not the case here. For the CWC and its implementing body, the OPCW, most of its key decisions, such as the budget, are taken at the regular annual session of the CSP. The Review Conference, while technically a CSP special session, takes no budget decisions, although its policy decisions could have budgetary consequences. The practical day-to-day operations of the OPCW would be unaffected if there was no substantive report from the Review Conference. There would be political consequences, however, as the Review Conference is there to provide a political steer to the overall regime to control chemical weapons and there might be questions raised about the coherence of that regime. In this context, many states parties clearly want to continue efforts to try to reach consensus on substantive elements of a final report, even though that challenge seems daunting.

This is the ninth report from the Fourth Review Conference of the Chemical Weapons Convention being held in The Hague 21-30 November 2018, preceded by the 23rd Session of the Conference of States Parties. These reports are prepared for the CWC Coalition, a global network of non-governmental groups with CWC interests, and are available at <<<http://www.cbw-events.org.uk/cwc-rep.html>>>. The author, Richard Guthrie of CBW Events, can be contacted via <<richard@cbw-events.org.uk>>.